

FACTSHEET

TITLE: **PRELIMINARY PLAT NO. 00020, FINIGAN RIDGE**, requested by Lyle Loth of ESP on behalf of Pearle Finigan, for 8 lots, with requests to waive sidewalks, street trees, street lighting and landscape screens, on property generally located at No. 84th Street and Waverly Road.

STAFF RECOMMENDATION: Conditional Approval.

ASSOCIATED REQUEST: Special Permit No. 1857, Finigan Ridge Community Unit Plan (00R-281).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 09/06/00
Administrative Action: 9/06/00

RECOMMENDATION: Conditional Approval (8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent).

FINDINGS OF FACT:

1. This preliminary plat and the associated Finigan Ridge Community Unit Plan were heard at the same time before the Planning Commission.
2. The Planning staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.7, concluding that this is a low density acreage residential cluster development that is in conformance with the zoning and is of substantially less impact to the area than the previously requested change of zone. No density bonus is being requested.
3. The applicant's testimony is found on p.10-12.
4. Testimony in opposition is found on p.11, and the record consists of one letter in opposition (p.35). The issues of the opposition include water quality and quantity.
5. The applicant referred to the Groundwater Report found on p.25-29, which indicates that there is sufficient water and that this development will not adversely affect the subject property or the residential property to the northeast. (Also see Minutes, p.12).
6. The Planning Commission discussion is found on p.11-13.
7. On September 6, 2000, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend conditional approval, as set forth in the staff report dated August 23, 2000, including approval of the requested waivers.
8. On September 7, 2000, a letter reflecting the action of the Planning Commission and the conditions of approval was mailed to the applicant (pp.2-4).
9. The Site Specific conditions of approval required to be completed prior to scheduling this item on the Council agenda have been submitted by the applicant and approved by the reviewing departments.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 26, 2000

REVIEWED BY: _____

DATE: September 26, 2000

REFERENCE NUMBER: FS\CC\FSP00020

September 7, 2000

ESP - Lyle Loth
4910 Normal Blvd., Ste. D
Lincoln NE 68506

Re: Preliminary Plat No. 00020
FINIGAN RIDGE

Dear Mr. Loth:

At its regular meeting on Wednesday, **September 6, 2000**, the Lincoln-Lancaster County Planning Commission granted approval to your preliminary subdivision, **Finigan Ridge**, located in the general vicinity of **84th & Waverly Road**, subject to the following conditions:

Site Specific:

1. After the subdivider completes the following instructions and submits the documents and plans to the Planning Department office, the preliminary plat will be scheduled on the City Council's agenda: (NOTE: These documents and plans are required by ordinance or design standards.)
 - 1.1 A revised site plan to show all the required revisions of Special Permit 1857.
2. The City Council approves the following:
 - 2.1 Exceptions to the Subdivision Ordinance;
Section 26.27.020 to waive sidewalks,
Section 26.27.090 to waive street trees,
Section 26.27.070 to waive street lighting,
Section 26.27.080 to waive landscape screens.
 - 2.2 A modification to Section 26.23.130 to exceed block length along the north, south, east, and west side of the subdivision.

General:

3. Final Plats will be scheduled on the Planning Commission agenda after:
 - 3.1 Streets, sidewalks, public water distribution system, public wastewater collection system, drainage facilities, ornamental street lights, landscape screens, street trees, temporary turnarounds and barricades, and street name signs have been completed or

the subdivider has submitted a bond or an approved escrow of security agreement to guarantee their completion.

3.2 The subdivider has signed an agreement that binds the subdivider, its successors and assigns:

3.2.1 To submit to the Director of Public Works an erosion control plan.

3.2.2 To protect the remaining trees on the site during construction and development.

3.2.3 To pay all improvement costs.

3.2.4 To submit to lot buyers and home builders a copy of the soil analysis and water report including information on groundwater iron and manganese and methods of removal.

3.2.5 To continuously and regularly maintain the Outlots.

3.2.6 To complete the private improvements shown on the preliminary plat and community unit plan.

3.2.7 To maintain the outlots and private improvements on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the document or documents creating said property owners association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

3.2.8 To comply with the provisions of the Land Subdivision Ordinance regarding land preparation.

The findings of the Planning Commission will be submitted to the City Council for their review and action. You will be notified by letter if the Council does not concur with the conditions listed above.

You may appeal the findings of the Planning Commission to the City Council by filing a notice of appeal with the City Clerk. The appeal is to be filed within 14 days following the action by the Planning Commission. You have authority to proceed with the plans and specifications for the installation of the required improvements after the City Council has approved the preliminary plat. If you choose to construct any or all of the required improvements prior to the City's approval and acceptance of the final plat, please contact the Director of Public Works before proceeding with the preparation of the engineering plans and specifications. If the required minimum improvements are not installed prior to the City Council approving and accepting any final plat, a bond or an approved Agreement of Escrow of Security Fund is required.

The approved preliminary plat is effective for only ten (10) years from the date of the City Council's approval. If a final plat is submitted five (5) years or more after the effective date of the preliminary plat, the City may require that a new preliminary plat be submitted. A new preliminary plat may be required if the subdivision ordinance or the design standards have been amended.

You should submit an ownership certificate indicating the record owner of the property included within the boundaries of the final plat when submitting a final plat.

The Subdivision Ordinance requires that there be no liens of taxes against the land being final platted and that all special assessment installment payments be current. When you submit a final plat you will be given forms to be signed by the County Treasurer verifying that there are no liens of taxes and by the City Treasurer verifying that the special assessment installment payments are current.

Sincerely,

Russell J. Bayer, Chair
City-County Planning Commission

cc: Owner
Public Works - Dennis Bartels
LES
Alltel Communications Co.
Cablevision
Fire Department
Police Department
Health Department
Parks and Recreation
Urban Development
Lincoln Public Schools
County Engineers
City Clerk
File (2)

LINCOLN CITY/LANCASTER COUNTY PLANNING DEPARTMENT
COMBINED STAFF REPORT

P.A.S.#: Finigan Ridge
Special Permit #1857, Community Unit Plan
Preliminary Plat #00020

Date: August 23, 2000

****As Revised by Planning Commission on 9/6/00****

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

PROPOSAL: Lyle Loth, ESP, for Pearle Finigan, has applied for a Special Permit and Preliminary Plat for an 8 lot Community Unit Plan generally located at N 84th Street and Waverly Road.

Requested waivers:

1. Section 26.27.020 Sidewalks
2. Section 26.27.090 Street trees
3. Section 26.27.070 Street lighting
4. Section 26.27.080 Landscape screens.
5. Section 26.23.130 Block length

GENERAL INFORMATION:

APPLICANT: Lyle Loth, ESP
4910 Normal Blvd, Suite D
Lincoln, NE 68506
(402) 484-5500

CONTACT: same

OWNER: Pearle Finigan
6321 A Street
Lincoln, NE 68510

LOCATION: Southwest corner of 84th & Waverly Road

REQUESTED ACTION: Approval of cluster and plat.

LEGAL DESCRIPTION: Lot 6 I.T. in the NE 1/4 of Section 15, T11N, R7E, in the 6th P.M., Lancaster County, Nebraska.

EXISTING ZONING: AG Agricultural

PURPOSE: For acreage residential development.

SIZE: 159.32 Acres, more or less.

EXISTING LAND USE: Agricultural

SURROUNDING LAND USE AND ZONING: AG zone in the surrounding area, except for AGR zoning on Finigans subdivision to the northeast. Agricultural to all sides except for the acreage subdivision to the northeast (containing 37 lots).

COMPREHENSIVE PLAN SPECIFICATIONS: In conformance. The 1994 Comprehensive Plan shows this area as Agriculture.

HISTORY: Changed from AA Rural and Public Use to AG Agricultural. The land to the northeast (Finigan's sub) was platted under the AA zoning and is "grandfathered" as well as an additional portion that was changed to AGR in 1997 and platted. That zoning and plat were in conformance with the Comprehensive Plan and finished out the prior subdivision. A change of zone to AGR (#3241) was denied by the Planning Commission in April and withdrawn at the City Council in May 2000.

SPECIFIC INFORMATION:

UTILITIES: There are no sewer or water public utilities available. This is in the LES service system.

TOPOGRAPHY: Gently rolling, sloping to the south and east.

TRAFFIC ANALYSIS: This is served by Waverly Road and 84th Street. Waverly Road is a paved county road and 84th is a gravel county road. 84th is not shown for future paving.

PUBLIC SERVICE: This is in the Waverly Rural Fire District and the Waverly School District #145. This is served by the Lancaster County Sheriff's Department.

REGIONAL ISSUES: Expansion of acreage areas.

ENVIRONMENTAL CONCERNS: The Historic and Ecological Resources survey shows no resources on this site. The soil rating on this land is 4.75 on a scale of 1 to 10 where 1 is the highest and a rating of 1-4 is prime agriculture land. This is not prime ag land.

AESTHETIC CONSIDERATIONS: n/a

ALTERNATIVE USES: Continued farming, twenty acre lots or cluster.

ANALYSIS:

1. This is a request for a Preliminary Plat and Community Unit Plan for 8 single family, acreage size, residential lots. The applicant is proposing a private, crushed rock, internal street (Outlot B), individual water service, individual waste disposal and one outlot for farming/agriculture (Outlot A). No bonus is being requested.
2. Public Works notes that they have no objections. Public Works will review the erosion and sediment control measures at the time of final plat.
3. The applicant is requesting waiver of sidewalks, street trees, street lights, landscape screens and block length. These requests are reasonable as this reflects the rural nature of the area, has lots over one acre in size and will not be annexed at this time, and complies with all considerations of section 26.27. Public Works had no objections to the request. A request to waive Storm Water Detention is noted, however, farm and pasture land is the base that change in runoff is measured from. This application would have no significant change and thus is presumed to meet the standard.
4. The Lincoln-Lancaster County Health Department notes;

Sewage disposal is projected to be individual sewage disposal. It is noted that sewage lagoons will be permitted and LLCHD will insist that this be complied with. Soils are almost entirely Sharpsburg that has a possibility but no guarantee of percolation test for septic systems.

Water supply is projected to be individual wells and LLCHD concurs with the water report finding that there is an adequate amount of groundwater in this area. Potential purchasers of lots in this proposed subdivision must be informed of high manganese and iron and of methods of removal.
10. The County Engineer letter of August 11, 2000 includes the following comments;
 1. The temporary turnaround and 22' Type III barricade should be built on N. 79th Street, not on Outlot A. Outlot A will be private property with no access easement.
 2. The ditch bottom shall be a minimum of 2 feet below the shoulder. This dimension is not on the typical cross-section.
 3. Access shall be relinquished to Waverly Road from Outlot A.
 4. The legal description of this property is Lot 6, I.T.
 5. Bonding requirements are described in the June 23, 2000 letter.

CONCLUSION:

This is a low density acreage residential cluster development that is in conformance with the zoning and is of substantially less impact to the area than the previously requested change of zone. No bonus is being requested.

STAFF RECOMMENDATION: Approval, with conditions.

CONDITIONS:

Site Specific:

1. After the subdivider completes the following instructions and submits the documents and plans to the Planning Department office, the preliminary plat will be scheduled on the City Council's agenda: (NOTE: These documents and plans are required by ordinance or design standards.)
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 - 3.2 The subdivider has signed an agreement that binds the subdivider, its successors and assigns:
 - 3.2.1 To submit to the Director of Public Works an erosion control plan.

- 3.2.2 To protect the remaining trees on the site during construction and development.
- 3.2.3 To pay all improvement costs.
- 3.2.4 To submit to lot buyers and home builders a copy of the soil analysis and water report including information on groundwater iron and manganese and methods of removal.
- 3.2.5 To continuously and regularly maintain the Outlots.
- 3.2.6 To complete the private improvements shown on the preliminary plat and community unit plan.
- 3.2.7 To maintain the outlots and private improvements on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the document or documents creating said property owners association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
- 3.2.8 To comply with the provisions of the Land Subdivision Ordinance regarding land preparation.

Prepared by:

Michael DeKalb, AICP
Planning Department

**SPECIAL PERMIT NO. 1857
FINIGAN RIDGE COMMUNITY UNIT PLAN
and
PRELIMINARY PLAT NO. 00020,
FINIGAN RIDGE**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Conditional approval.

These applications were removed from the Consent Agenda and had separate public hearing due to a letter received in opposition.

Mike DeKalb of Planning staff submitted a letter from John Hahn, attorney, on behalf of Retzlaff Farms, in opposition. They have concerns about draw down of water; they believe that any allowance for development will be detrimental to shortage of water and should not be approved.

DeKalb also submitted a revised page 2 of the staff report to reflect that this application is in conformance with the Comprehensive Plan (as opposed to not in conformance).

Proponents

1. Mark Hunzeker appeared on behalf of the owner and developer, Pearle Finigan. A previous submittal on this property showed rezoning to AGR with approximately 43 dwelling units. The recommendation at that time was to wait until the Comprehensive Plan is updated. At the suggestion of the staff, this applicant has chosen to come back with an application for a community unit plan, utilizing the existing AG zoning. This is in conformance with the Comprehensive Plan.

With respect to the opposition received, it is Hunzeker's understanding that the opposition is opposed to the draw down of water. Hunzeker referred to the map on p.23 of the agenda. The property on the east side of No. 84th street is being irrigated with a well that pumps something around 500+ gpm. The lots in this application will be more than a half mile away from the irrigation well. When computing the size for sanitary sewer in the city, generally speaking the rule is that the average household uses something around or less than 120 gallons per day. So, in a matter of a couple of minutes, that irrigation well will probably pump more water out of the aquifer than all 8 proposed dwelling units in one day. This proposal will not cause draw down or problems with the irrigation well.

Hunzeker noted that Condition #1.1.2 requires relinquishment of all access to Outlot A from Waverly Road. Because Outlot A will continue to be farmed, Hunzeker requested that "except for farm equipment" be added to Condition #1.1.2. This will allow farm access to Waverly Road.

Hunter inquired as to the potential for further development on the rest of Outlot A. Hunzeker stated that as it stands today, there will be none until such time as there is an amendment to the Comprehensive Plan that acreage development is appropriate here and a change of zone is applied for and approved. It will be used for farming until such time. Under the community unit plan, the proposed density is available under the existing zoning.

Bayer noted that Outlot A is not irrigated today, but he wondered whether it could be. And if so, would it pull down the same amount of water from the aquifer? Hunzeker stated that assuming that the well across the street is capable of pumping 500-700 gpm, he assumes the same thing could be done here.

Opposition

1. Allen Retzlaff, President of Retzlaff Farms, Inc., testified in opposition. He farms the property adjacent to the proposal. He submitted that the water, both domestic and irrigation, is limited in this area of Lancaster County. The NRD has taken samples of the well water in the wells adjacent to the subject property. There has been a drop of the water aquifer and it took approximately 6 years to replenish the aquifer to get it to what it is in the area now. In another 3-4 weeks, the NRD will be doing the well tests again in that area. With the drought we have had in the last 18-24 months, Retzlaff expects to see significant decline in the water level.

Retzlaff explained that the well Hunzeker discussed was put in in 1982, but no reports were requested until in 1994. In 1986 and 1987, the Finigan subdivision to the north showed a lot of neighbors complaining about access to water for domestic use. The wells do not pump 700 gpm in that area. We have two wells put together to run those systems which accentuates that there is not adequate water for what is being proposed. Retzlaff also owns property ½ mile south, and there are two abandoned irrigation wells because they could only get 450 gpm out of two wells.

Retzlaff also noted that there is AG zoning to the north, but up in the corner there are subdivisions shown that had problem with access to water in 1985 through 1990. He has been asked to haul water to lagoons within the County.

Retzlaff believes that this area needs to be considered for a longer period of time to determine what the water table is going to do. He has four wells in the half section--approximately three on the quarter mile line and one 25' off the public right-of-way on 84th Street. One will not pump over 300 gpm. It is marginal. He drilled seven different test wells on that quarter section. The deepest well is probably 125'.

Hunter noted that there were peak and valley periods. Retzlaff stated that the peaks and valleys are in direct correlation to the dry spells we had in 1984-1988. Hunter wondered whether the peak and fall between 1982 and 1987 is showing a diminishing supply. Retzlaff

responded, stating that the amount of effect it has on the water aquifer in that area is related to the amount taken into the profile from above. We use that water and it takes a long time to replenish.

Hunter noted that as far back as 1983, there was a very significant dip but there was an extreme recovery; however, the recovery over the last 10 years is not what it was before. She assumes that the actual water level is not recovering. Retzlaff has property in other parts of the county with livestock wells that have never been out of water since the 30's and the wells and dams are empty. He is really concerned for the neighbors to the north (25-30 residents). He believes this will impact them.

Staff questions

Carlson asked whether water testing is required when the developer gets the building permits. DeKalb advised that when they submit a final plat they will have to submit a water quality report. It is reviewed by the Health Dept. When a plat is approved, the groundwater report is reviewed by the Health Department, and in this case the Health Department concurred that there is adequate water for the lots (at that time, 46 lots). At the time of creation of lots, the well does not have to be drilled and tested.

Carlson wanted confirmation that a lot purchaser will know whether there is water on that lot. DeKalb indicated that that information would be available at that time.

Response by the Applicant

Hunzeker advised that this owner has had two test wells drilled and both show adequate water for this subdivision. Vince Dreeszen's report states that,

“The depth to water should range from about 80 to 115 feet depending on the ground elevation. Groundwater movement is to east-southeast. The total saturated thickness is expected to be 80 to 100 feet. Because of some potential loss in head in a particularly dry year and intensive irrigation withdrawal from nearby wells to the east and south, the pump in a well should be set sufficiently deep to account for seasonal drawdown of the aquifer.”

We do have some years that are dryer than others. The amount of water that is drawn down for domestic use is very, very, very small in comparison to the draw down for irrigation. Dreeszen believes there is plenty of water and it will not adversely affect the rest of the property or the residential property to the northeast.

Public hearing was closed.

SPECIAL PERMIT NO. 1857

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 6, 2000

Schwinn moved approval of the Planning staff recommendation, with conditions, with the amendment to Condition #1.1.2 as requested by the applicant, seconded by Duvall and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

PRELIMINARY PLAT NO. 00020

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 6, 2000

Duvall moved approval of the Planning staff recommendation, with conditions, seconded by Schwinn.

Hunter had concerns about the waiver requests. Schwinn believes the waivers requested are not unusual on acreage developments.

Hunter inquired about the waiver of block length. DeKalb explained that this is not unusual and it applies all the way around the edge of the subdivision. DeKalb further explained that in an acreage development, especially when clustered, the outlots are retained for farmland. The advantage to the waiver of the block length is that there is no particular need to extend the road through the farm land. It is anticipated that the large outlots will be replatted in the future, at which time the cross-streets will be provided as needed. In rural subdivisions on AG lots, it is relatively common to waive the block length because of that kind of circumstance.

Bayer is in a dilemma with respect to the water issue. The Health Dept. has determined that there is adequate supply so he will support their recommendation. Bayer suggested that the staff provide the Planning Commission with a separate presentation in the future on groundwater in the county.

Motion for conditional approval carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.